

# **EXHIBIT C21-1**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA

CAVALIER TELEPHONE, LLC                     )  
   )  
                  versus                             )     Civil Action No. 03:01CV736  
   )  
VERIZON VIRGINIA INC.                     )

**MEMORANDUM IN SUPPORT OF MOTION FOR TEMPORARY  
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Plaintiff, Cavalier Telephone, LLC ("Cavalier"), respectfully submits this Memorandum in support of its Motion for Temporary Restraining Order and Preliminary Injunction that enjoins Verizon Virginia Inc. ("Verizon") from acting on its threat to terminate its provision of new "last-mile" facilities to Cavalier on November 15, 2001, and from terminating its interconnection agreement with Cavalier. The threatened actions violate Verizon's interconnection agreement with Cavalier and the provisions of the Federal Communications Commission's June 16, 2000 Memorandum Opinion and Order, FCC 00-221, in *GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, For Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, FCC Docket No. 98-184 ("BA/GTE Merger Order").

**Factual Background**

Cavalier competes with Verizon in offering basic telecommunications services to residential and business customers. (Affidavit of Brad A. Evans ("Evans Aff.") at ¶¶ 6-8, filed contemporaneously herewith.) To the extent that it is reasonable and practicable, Cavalier relies upon its own facilities and equipment to offer these services (*id.* at ¶¶ 9-

10). However, Cavalier must obtain from Verizon certain “last-mile facilities,” or “loops,” that include the fiber or copper lines running to individual homes and businesses (*id.* at ¶¶ 11-12). Pursuant to applicable orders of the Virginia State Corporation Commission (“SCC”) and the Federal Communications Commission (“FCC”), Verizon is required to charge Cavalier certain prices for these last-mile facilities or loops. (Affidavit of Martin W. Clift, Jr. (“Clift Aff.”) at ¶¶ 9-10, filed contemporaneously herewith.)

However, Verizon has never rendered an accurate bill to Cavalier for these loops. (Affidavit of David O. Whitt (“Whitt Aff.”) at ¶ 8, filed contemporaneously herewith.) Instead, Verizon’s loop bills, like its bills to Cavalier for other matters, such as the use of utility poles and conduit, have suffered from major problems (*id.* at ¶¶ 9, 14). With the loop bills, the biggest apparent sources of problems have been classifying loops in the appropriate “density cell” so the proper rate is charged, and applying merger discounts for residential loops, as required by the FCC in the BA/GTE Merger Order.

Charging for the proper density cells is critical, because the charges for loops in different cells vary widely, and the charges are applied to Cavalier’s accounts for about 100,000 telephone users in Virginia (*see* Evans Aff. at ¶ 36). The monthly charges for basic loops in these density cells are \$10.74 for Zone 1, \$16.45 for Zone 2, and \$29.40 for Zone 3. (See SCC’s 4/15/99 Final Order, Exhibit A at p. 1, in Case No. PUC970005, at <http://www.state.va.us/scc/caseinfo/puc/case/c970005d.pdf>.) Therefore, if Verizon errs by charging for a loop in Zone 3 instead of Zone 1, then the overcharge can be almost 300% of the charges, magnified by the percentage of Cavalier’s roughly 100,000 Virginia telephone users who are affected.

Applying the proper merger discounts under the BA/GTE Merger Order is also critical, because the discounts for residential loops Virginia are 5% for Zone 1, 38% for Zone 2, and 51% for Zone 3. (Whitt Aff. at ¶ 7.) Therefore, when Verizon fails to apply the merger discounts, Cavalier is overcharged by as much as 51% for the loops it uses to serve residential customers. In one “sample” of supposedly “corrected” bills provided to Cavalier by Verizon, Cavalier found that Verizon identified every single customer as a business customer not eligible for any discount, even though about two-thirds of Cavalier’s customers are residential customers. (Whitt Aff. at ¶ 35.)

Cavalier has had problems with Verizon’s bills for over two years. (Whitt Aff. at ¶ 18.) Because the loop bills were so rife with error, Cavalier undertook the effort of “self-billing” from July 1999 through March 2000, paying Verizon what it thought it owed (Whitt Aff. at ¶ 21). Cavalier asked Verizon to verify Cavalier’s “self-bills” for April through July 2000, but Verizon refused (*id.* at ¶ 25). Faced with uncertainty about what amounts Verizon would accept or seek to recover later, Cavalier ceased paying Verizon’s erroneous loop bills, but continued to work with Verizon to resolve the billing problems (*id.* at ¶¶ 26-36). Late in the first quarter of 2001, Cavalier even sought to settle all loop bills through December 31, 2000, but Verizon deferred the request because the loop bill problems extended to all other competitors, and was not just limited to Cavalier (Whitt Aff. at ¶ 28).

Some of Cavalier’s efforts to resolve Verizon’s billing errors are described in the accompanying affidavits of David O. Whitt, Cavalier’s Vice President-Finance, and Martin W. Clift, Jr., Cavalier’s Vice President-Regulatory. Among other things, Cavalier has frequently requested bills in an electronic format that would be more acceptable and

easier to use, but Verizon has consistently refused (Whitt Aff. at ¶ 19). Instead, Verizon insisted on sending Cavalier over 50,000 pages of paper bills every month. (*Id.* at ¶ 20; Clift Aff. at ¶¶ 14-15 and Exhibit “8” to Clift Aff.) As the U.S. Department of Justice, other competitors of Verizon, and Verizon’s own employees have emphasized, it is virtually impossible for small competitors like Cavalier to sort through this volume of paper every month in an effort to verify the validity or accuracy of Verizon’s charges. (Clift Aff. at ¶¶ 14-15.) The problem has become so acute that *USA Today* ran a story about it on the front page of its business section on August 21, 2001. (Clift Aff. at ¶¶ 29-30 and Exhibit “8” to Clift Aff.)

Most recently, Verizon seemingly decided to cease its efforts to resolve the loop bills. By letter dated October 15, 2001, Verizon demanded immediate payment of about \$9 million in “minimum” charges that Verizon says are “undisputed,” and essentially threatened to shut down Cavalier’s business on November 15, 2001 if Cavalier does not meet this demand. (See Whitt Aff. at ¶ 38; Clift Aff. at ¶ 35 and Exhibit “10” to Clift Aff.) Even this “minimum” amount demanded by Verizon was not accurate, and one error alone resulted in a \$1.5 million error in Verizon’s favor (Whitt Aff. at ¶ 39). Further, Verizon’s actions do not address the underlying problem—Cavalier wants to stop wasting internal resources on billing hassles and needs to obtain some clarity in its bills from Verizon, for purposes of dealing with its investors and lenders (*id.* at ¶ 40).

Cavalier requested a meeting with Verizon to address all outstanding billing issues between the two companies, including Verizon bills disputed by Cavalier and Cavalier bills disputed by Verizon. Cavalier and Verizon representatives met in person on October 22, 2001, in Boston, (Clift Aff. at ¶ 37; Whitt Aff. at ¶ 41), and Cavalier

proposed a global settlement of all disputed bills between Cavalier, Verizon, and their respective affiliates, in a five-state area. (Clift Aff. at ¶ 37; Whitt Aff. at ¶ 42.)

Verizon has not yet responded to the proposal (see Exhibit “10” to Clift Aff.). By letter dated October 30, 2001, Cavalier also formally disputed Verizon’s October 15, 2001 letter, which purportedly put Cavalier on notice of default under the parties’ interconnection agreement (Clift Aff. at ¶ 38 and Exhibit “11” to Clift Aff.). Verizon stated in a November 1, 2001 e-mail that it was “reviewing” Cavalier’s October 30, 2001 letter, but that “it has not changed our minds with respect to our previously announced intentions.” (Clift Aff. at ¶ 39 and Exhibit “12” to Clift Aff.)

If Verizon carries out its threat of an “embargo” on new loops, it will quickly force Cavalier out of business (Evans Aff. at ¶¶ 32-35). If Verizon carries out its further threat of ultimately terminating its interconnection agreement with Cavalier, it will simply hasten that process as well as cause service disruptions or disconnection for about 100,000 Virginia telephone users (*id.* at ¶ 36). Cavalier is therefore seeking immediate relief in the form of a temporary restraining order and preliminary injunction.

#### **Standard for Temporary Restraining Order and Preliminary Injunction**

The standard for granting preliminary injunctive relief is the balancing-of-hardship analysis set forth in Blackwelder Furniture Co. v. Seilig Mfg. Co., 550 F.2d 189 (4th Cir. 1977). Dickson v. Morrison, 1999 U.S. App. LEXIS 17795 (4th Cir. July 27, 1999). “In making this analysis, a district court must consider the following four factors: (1) the likelihood of irreparable harm to the plaintiff if the preliminary injunction is denied; (2) the likelihood of harm to the defendant if the requested relief is granted; (3)

the likelihood that the plaintiff will succeed on the merits; and (4) the public interest.”

Id. Further, as the Fourth Circuit has emphasized:

The two most important factors for the district court to consider are the possible irreparable harm to the plaintiff if injunctive relief is not granted and the harm to the defendant if injunctive relief is granted. The district court must first find that the plaintiff has made a “clear showing” of irreparable harm that is “neither remote nor speculative, but actual and imminent.” Once the court has made this finding, it may proceed to balance this harm against the harm to the defendant if the preliminary injunction is granted. The district court then determines the likelihood of success on the merits on a sliding scale as follows:

If, after balancing those two factors, the balance tips decidedly in favor of the plaintiff, a preliminary injunction will be granted if the plaintiff has raised questions going to the merits so serious, substantial, difficult and doubtful, as to make them fair ground for litigation and thus for more deliberate investigation. As the balance tips away from the plaintiff, a stronger showing on the merits is required.

Id. (internal citations omitted).

### **Argument**

#### **1. The Court has subject matter jurisdiction.**

As explained below, Cavalier requests that the Court issue a temporary restraining order and preliminary injunction to prevent irreparable harm flowing from Verizon’s breach of its interconnection agreement with Cavalier, to enforce Verizon’s compliance with the BA/GTE Merger Order, and to enforce Verizon’s compliance with its interconnection obligations pursuant to 47 U.S.C. § 251(a)(1).

With respect to breach of the interconnection agreement, the Court has jurisdiction pursuant to 28 U.S.C. § 1332. Cavalier is an unincorporated association whose sole member is a citizen of Delaware with no principal place of business, so Cavalier is a citizen of Delaware under the rule of Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157 (1990). Verizon is a Virginia corporation.

(See, e.g., Verizon Virginia Inc's August 13, 2001 Form 10-Q for the second quarter 2001, filed with the U.S. Securities Exchange Commission.) Further, Verizon seeks payment of approximately \$9 million from Cavalier (Exhibit "10" to Clift Aff.), so the amount in controversy exceeds \$75,000, exclusive of interest and costs. Further, the other matters pertaining to the loop bills are so related to claims in the action over which the Court has jurisdiction under 28 U.S.C. § 1332, that the Court has supplemental jurisdiction under 28 U.S.C. § 1367(a).

The BA/GTE Merger Order is an order of the FCC, and Verizon has failed or neglected to obey the order by not providing discounts on last-mile facilities or loops. Title 47 U.S.C. § 401(b) provides that the FCC or any party injured by failure or neglect to obey an FCC order "may apply to the appropriate district court of the United States for the enforcement of such order." Therefore, to the extent that this matter involves enforcement of the BA/GTE Merger Order, the Court has jurisdiction pursuant to 47 U.S.C. § 401(b). Further, the other matters pertaining to the loop bills are so related to claims in the action over which the Court has jurisdiction under 47 U.S.C. § 401(b), that the Court has supplemental jurisdiction under 28 U.S.C. § 1367(a).

**2. Cavalier will suffer actual and imminent irreparable harm if injunctive relief is not granted.**

As noted above, the "last-mile facilities" or "loops" provided by Verizon are essential for Cavalier to provide basic telecommunications services to its customers (Evans Aff. at ¶¶ 11-12). If Verizon carries out its threat to stop supplying new loops, then Cavalier would be unable to add new customers, accommodate customers who are moving, or add lines for existing customers, and Cavalier's business would quickly fail (*id.* at ¶¶ 32-35). Further, if Verizon carries out its threat to terminate its interconnection



agreement with Cavalier, it will simply hasten that process by preventing most of Cavalier's customers from receiving service from Cavalier and by preventing all of Cavalier's customers from completing calls to and from Verizon's customers (*id.* at ¶ 36).

Allowing Verizon to drive Cavalier out of business would cause Cavalier irreparable harm. Multi-Channel TV Cable Co. v. Charlottesville Quality Cable Operating Co., 22 F.3d 546 (4<sup>th</sup> Cir. 1994) (where service to customers varies, damages are incapable of calculation, and interruption of service would lead to irreparable harm in the form of loss of customers' goodwill); Federal Leasing, Inc. v. Suburban Trust Co., 650 F.2d 495 (4<sup>th</sup> Cir. 1981) (harm to company's ability to continue its business and preserve its existence, as well as to its relations with customers and investors, is irreparable); GTECH Corp. v. Charles Town Races, Inc., 1997 U.S. Dist. LEXIS 12828 (N.D.W.Va. May 23, 1997) (possibility of permanent loss of customers to a competitor constitutes irreparable harm).

### **3. The requested injunctive relief will not harm Verizon.**

In stark contrast to the bleak prospects faced by Cavalier, Verizon will suffer no harm if Cavalier is granted a temporary restraining order and preliminary injunction. As noted by David Whitt and Martin W. Clift, Jr., Cavalier was still in the midst of attempting to resolve its loop bills and other disputed bills with Verizon when Verizon abruptly decided to threaten Cavalier with an "embargo" on new loop and termination of the parties' interconnection agreement. (Whitt Aff. at ¶¶ 37; Clift Aff. at ¶¶ 35.)

Indeed, Cavalier continued to discuss the resolution of these issues with Verizon even after Verizon threatened Cavalier with an "embargo" and termination of the interconnection agreement. (Whitt Aff. at ¶ 41; Clift Aff. at ¶¶ 37.) Moreover, the loop

bill is just one issue among many billing issues between the two companies (Clift Aff. at ¶ 35; Whitt Aff. at ¶ 42), and Cavalier is just one of many companies that has experienced severe problems of this type with Verizon's bills (Clift Aff. at ¶¶ 20-30.)

Finally, as noted above, even absent the "embargo" and termination of the interconnection agreement, Verizon was free to seek relief at the SCC or "in any other forum." (Exhibit "1" to Clift Aff., at § 24.1, Part A-23.) Instead, Verizon tried to claim that Cavalier was "in default" as a justification for seeking to force Cavalier to pay an amount dictated by Verizon. Verizon will suffer no harm if it seeks resolution of the billing dispute in an appropriate forum, rather than seeking to extort payment from Cavalier by threatening actions that would put Cavalier out of business.

**4. Cavalier has raised serious and substantial questions  
going to the merits of its claims.**

In its October 15, 2001 letter, Verizon referred to sections 21 and 24 of Cavalier's interconnection agreement with Verizon to claim that Cavalier is "in default" for not paying what Verizon characterizes as a "minimum" amount that is due to Verizon for the loop bills as an "undisputed" matter, (Exhibit "10" to Clift Aff.)

Section 21.1 of the interconnection agreement provides for an injured party "to terminate or suspend this Agreement and/or the provision of services." (Exhibit "1" to Clift Aff. at § 21.1, Part A-16.) However, this provision contains an exception for billing disputes. Under § 21.3 of the agreement, billing disputes are resolved in accordance with procedures set forth in § 3.1.9 of Exhibit VIII to the interconnection agreement. (Exhibit "1" to Clift Aff. at pp. VIII-25 and VIII-26.)

That section provides for efforts by the two parties to resolve a dispute, failing which the dispute will be resolved in accordance with dispute resolution procedures

outlined in section 24 of the interconnection agreement. Section 24 in turn provides that the parties may take an unresolved dispute to the SCC, but that “[t]his provision shall not preclude the Parties from seeking relief available in any other forum.” (*Id.* at Parts A-23 and A-24.) Verizon has not pursued all of its remedies under this dispute resolution procedure, in terms of completing settlement discussions in which Verizon itself has continued to participate actively or in terms of seeking relief in an appropriate forum. Instead, Verizon unilaterally decided to threaten Cavalier with an “embargo” on new loops and termination of the interconnection agreement, in an attempt to coerce Cavalier into paying disputed amounts that Verizon is unable to bill accurately.

The actions threatened by Verizon are not in compliance with the interconnection agreement and, as pointed out above, these actions would drive Cavalier out of business. The Court should therefore restrain Verizon from violating the terms of its interconnection agreement with Cavalier, so Verizon can either negotiate a mutually satisfactory resolution with Cavalier or pursue relief in an appropriate forum.

Second, as pointed out in the accompanying affidavits, Verizon has not applied discounts required by the BA/GTE Merger Order. (Whitt Aff. at ¶¶ 9, 35; Clift Aff. at ¶ 13.) As a result, Verizon has failed or neglected to comply with the BA/GTE Merger Order, and threatens Cavalier with an “embargo” and termination of its interconnection agreement with Verizon based on faulty bills generated without regard to the BA/GTE Merger Order. The Court should order Verizon to withdraw its threats of embargo and termination of the interconnection agreement, and order Verizon to comply with the BA/GTE Merger Order.

The harms outlined above shows that the balance tips decidedly in favor of Cavalier, which will go out of business if injunctive relief is not granted, and against Verizon, which at most will suffer delay in the payment of disputed bills if injunctive relief is granted. Further, as shown in the discussion above of applicable contractual provisions and the discounts ordered in the BA/GTE Merger Order, Cavalier has presented a compelling case on the merits, in a matter in which the U.S. Department of Justice has emphasized the problems caused by Verizon's billing practices, and the anticompetitive impact of those practices. At the very least, Cavalier has raised questions going to the merits of the case that are so serious, substantial, difficult and doubtful, as to make them fair ground for litigation and thus for more deliberate investigation. The Court should therefore grant the injunctive relief requested by Cavalier.

**5. An order preventing Verizon from carrying out its threats is in the public interest.**

Virginia's General Assembly declared in 1995 that "After notice to all local exchange carriers certificated in the Commonwealth and other interested parties and following an opportunity for hearing, the [SCC] may grant certificates to applicants proposing to furnish local exchange telephone service in the service territory of another certificate holder," in legislation now codified at Virginia Code § 56-265.4:4(B)(1).

The General Assembly specifically directed the SCC to promulgate rules that would, among other things, "promote and seek to assure the provision of competitive services to all classes of customers throughout all geographic areas of the Commonwealth by a variety of service providers." See Virginia Code § 56-265.4:4(B)(3)(i) (emphasis supplied). In 1996, the U.S. Congress likewise sought "to promote competition and reduce regulation in order to secure lower prices and higher quality services for American

telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.” Preamble, Public Law No. 104-104, 110 Stat. 56.

These legislative directives state a clear policy in favor of competition in the market for basic telecommunications services. If Verizon carries out its threat of not providing new loops to Cavalier after November 15, 2001, then consumers will not be allowed to choose Cavalier as a competitive alternative to Verizon, and Cavalier’s existing customers will not be able to add new services or to move. Such a result would disserve the public interest by causing inconvenience and potential service interruptions to consumers.

Further, Verizon’s “embargo” on new loops would quickly force Cavalier out of business (Evans Aff. at ¶¶ 32-35) and would thus directly contravene the clear public policy in favor of competition in the market for basic telecommunications services. Further, many of Cavalier’s customers would be forced to return to Verizon as their provider for basic telecommunications services (*id.* at ¶ 36). Neither driving a competitor out of the market, nor forcing its customers back to the former monopolist, would be in the public interest. Restraining Verizon from carrying out its threats would, however, favor the public interest by ensuring a competitive choice for about 1,500 customers a week who are switching to Cavalier’s service in Virginia (Evans Aff. at ¶ 34) and by ensuring that service is not disrupted or halted for about 100,000 Virginia telephone users (*id.* at ¶ 36).

For these reasons, the public interest weighs heavily in favor of granting the temporary restraining order and preliminary injunction requested by Cavalier.

**Conclusion**

For the reasons stated above, Cavalier respectfully requests that the Court grant its Motion for Temporary Restraining Order and Preliminary Injunction.

Respectfully submitted,

CAVALIER TELEPHONE, LLC

By:


  
Counsel

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 13<sup>th</sup> day of November 2001 I caused a true and correct copy of the above pleading to be served by hand delivery on the following counsel:

Richard Cullen, Esquire  
Anne Marie Whittemore  
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Counsel

# **EXHIBIT C21-2**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA

CAVALIER TELEPHONE, LLC

versus

VERIZON VIRGINIA INC.

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Civil Action No. 3:01CV736

**AFFIDAVIT OF DAVID O. WHITT**

1. I am over the age of 21 and competent to give this affidavit. I know the following to be correct as a matter of my personal knowledge or through my position as Vice President-Finance of Cavalier Telephone, LLC ("Cavalier").

**Background**

2. Since January 11, 1999, I have been Vice President-Finance for Cavalier, a Richmond-based competitor of Verizon Virginia Inc. ("Verizon").
3. From March 1996 through January 1999, I was Controller for a Richmond-based distributor of heating, ventilation, and air conditioning equipment, and before that, I worked as Tax Manager for KPMG Peat Marwick and for Coopers & Lybrand in Richmond, Virginia. I am a certified public accountant and a member of the American Institute of Certified Public Accountants.

**Verizon's "Loop Bills"**

4. As explained in an accompanying affidavit of Cavalier's president, Brad Evans, Cavalier provides service to its customers through its own equipment and facilities to the maximum extent that is reasonable and practical.



5. However, Verizon controls certain “last-mile facilities,” or “loops,” that Cavalier needs to provide service, and that it must lease from Verizon.
6. Verizon provides these facilities to Cavalier at prices set by the Virginia State Corporation Commission (SCC), which depend in part on the “density cell” within which a particular customer is located.
7. These loop prices are discounted by order of the Federal Communications Commission (FCC), as one of the conditions for its approval of the Bell Atlantic-GTE merger. In Exhibit D to these conditions (copy attached as Exhibit “1” to my affidavit), the FCC ordered Verizon to discount residential loop bills by 5% for Zone 1, 38% for Zone 2, and 51% for Zone 3.

#### **The Problems With Verizon’s Loop Bills**

8. Unfortunately, despite these rates and discounts set by the Virginia SCC and the FCC, Verizon has never provided Cavalier with an accurate bill for the last-mile facilities or “loops” that Verizon provides to Cavalier.
9. Verizon’s loop bills have suffered from problems that have included:
  - the bills include no useable summary information;
  - the bills are not in a form that is capable of being reconciled or audited for accuracy;
  - the bills appear to assign the loops for particular customers to the wrong density cell, which means the monthly charges for the loops are not billed at the proper rate;
  - the bills do not properly incorporate merger discounts required by the FCC;

- the bills appear to contain non-recurring charges (orders that require a field visit by Verizon or that contain a service order charge) that are inappropriate or non-recurring charges billed at an inappropriate rate;
  - the bills appear to contain inapplicable retail charges for federal, state, and E911 taxes; and
  - the bills contain unexplained order charges for “unbundled network elements,” or loops.
10. Because Verizon insists on sending Cavalier some 50,000 pages of paper or more each month, and has not agreed to Cavalier’s requests for an electronic version of the loop bills, Cavalier has been completely unable to reconcile the bills from Verizon with Cavalier’s own data about the Verizon loops that it uses.
  11. Verizon further complicates the situation by submitting bills generated by two different billing systems, a legacy system that bills in advance, and an Express-Trak system that bills in arrears.
  12. Cavalier therefore has a large liability to Verizon in an amount that Cavalier cannot reliably predict. Even when Cavalier does perform the work needed to estimate the amount that it owes to Verizon, Verizon typically will not state whether or not it accepts Cavalier’s estimate.
  13. The uncertainty caused by this situation has made it difficult for Cavalier to maintain a proper set of books and for Cavalier to obtain financing from its equity investors and lenders.

14. The scope of the problem is increased by similar billing problems with other bills that Cavalier receives from Verizon, such as “special projects” bills for the use of utility poles and conduit.
15. However, when Verizon does bill Cavalier accurately for other items, and therefore allows Cavalier to verify the accuracy of the bills, Cavalier routinely submits timely payment to Verizon.
16. For example, Cavalier routinely submits large sums for bills such as SS7 links (“H” bills), customer T1 lines (“J” bills), access trunks (“L” bills), 800 local number portability bills, leased fiber facilities such as T1 lines for network back-up (“U” bills), and most collocation set-up and augment bills for space conditioning in Verizon’s various central offices.
17. These payments amount to hundreds of thousands of dollars that Cavalier routinely pays to Verizon each month.

#### **History of Efforts to Resolve Billing Problems**

18. For over two years, since July 1999, Cavalier has been forced to contend with many billing problems with Verizon.
19. Cavalier has repeatedly asked Verizon to provide billing data in an accessible, electronic format, but Verizon has never done so.
20. Instead, Verizon has provided reams and reams of paper bills, in essentially the same format as the monthly bills that Verizon sends to its small residential retail customer who obtains telephone service over a single residential or business line.

21. At substantial expense and effort, from July 1999 through March 2000, Cavalier "self-billed" for loops, and paid Verizon over \$400,000 for the Verizon loops that Cavalier believed it was using, based on Cavalier's own data.
22. Verizon accepted the payments but would not comment on the accuracy of these self-bills or whether the self-billed amounts were acceptable to Verizon.
23. As a result, Cavalier lacked any certainty about Verizon's continued acceptance of this arrangement.
24. For example, through March 2000, Verizon had generated about \$801,000 in charges to Cavalier for loops, while Cavalier paid about \$427,000 in self-billed amounts. Verizon's charges to Cavalier also varied unpredictably, veering from \$111,000 for the month of February 2000 to \$689,000 for the month of March 2000, even though the number of loops purchased by Cavalier did not show anything close to that type of growth.
25. For the period from April 2000 to July 2000, Cavalier also provided Verizon with data concerning Cavalier's estimated loop purchases, and asked Verizon to review it for accuracy, but Verizon did not respond.
26. Verizon continued to send Cavalier flawed bills, but Verizon's lack of responsiveness to Cavalier's self-bills led Cavalier to stop devoting the time and resources to self-billing. A large balance began to accrue on the loop bills.
27. Verizon requested payment of this balance by letter dated November 1, 2000 (Exhibit "2" to my affidavit), and I responded by letter dated November 28, 2000 (Exhibit "3" to my affidavit), noting the many billing problems that Cavalier had encountered with Verizon. I also called and spoke with Juanita Thomas, who

signed the November 1, 2000 letter. Ms. Thomas apologized for the letter and said that it was sent in error.

28. Late in the first quarter of 2001, Cavalier offered to settle its loop bill with Verizon for the period ending December 31, 2000, but Verizon wanted to defer the issue. At that time, Joe Corticada told me that Verizon hoped that it would be able to fix the loop bills in another two weeks or so, and that Verizon had a problem with all of the competitive carriers' loop bills, and not just with Cavalier's bills. He explained that If Verizon settled with Cavalier alone, then it might complicate matters if Verizon were able to fix the larger billing problem.
29. Unfortunately, Verizon did not provide the promised solution in two weeks.
30. Because of the growing magnitude of the billing problem, Cavalier remained concerned with the situation, and Cavalier's Vice President-Regulatory, Marty Clift, sent a letter to Cavalier's account representative with Verizon, Sharon Logan, on May 16, 2001, seeking to discuss a variety of billing issues.
31. By letter dated June 13, 2001 (Exhibit "4" to my affidavit), Verizon again requested payment of the loop bill and several other bills by Cavalier, even though Cavalier continued to experience the problems described above. Again Cavalier disputed the bills, in a June 15, 2001 email from Marty Clift to Sharon Logan (last page of Exhibit "4" to my affidavit) and again in a June 19, 2001 email from Kathy McCullough to Joe Corticada (Exhibit "5" to my affidavit).
32. In a June 21, 2001 conference call, Cavalier outlined some of the problems it was experiencing with Verizon's loop bills, and Verizon listened to the problems but offered no real response or solution.

33. In another conference call on July 18, 2001, Verizon recognized some of the problems Cavalier was experiencing, but again had no solution for the loop bills.
34. In a face-to-face meeting in August 2001, Verizon presented its efforts to begin resolving some of these problems, and presented a "sample" of bills from one legacy account that Verizon believed it had resolved.
35. That sample still had many problems, which Cavalier identified to Verizon in that meeting. One key problem was the fact that every single bill in the sample was for a business customer (not eligible for merger discounts), even though about two-thirds of Cavalier's customers are residential customers.
36. Verizon stated that it would correct these problems and produce a new set of bills to Cavalier by the end of October 2001.

#### **Verizon's Threatening Letter**

37. Instead of sending Cavalier a new set of bills, Verizon sent Cavalier a letter dated October 15, 2001, demanding payment for a "minimum" amount that it claimed was due for Cavalier's Virginia loop bills. (See Exhibit "10" to Martin W. Clift, Jr.'s affidavit.)
38. In that letter, Verizon threatened to stop providing Cavalier with new loops beginning on November 15, 2001, and ultimately to terminate its interconnection agreement with Cavalier, if Cavalier does not pay Verizon this amount.
39. However, even Verizon's "minimum" amount of approximately \$9 million contained major flaws. For example, I immediately identified one apparent formula error that, by itself, caused an overcharge of \$1.5 million, or almost 20% of the "minimum" amount demanded by Verizon.

40. Cavalier also did not want to be pushed into making a partial payment of its bills, because Cavalier wants to stop wasting internal resources dealing with monthly billing hassles and needs to obtain some clarity in its bills, for purposes of dealing with its investors and lenders.
41. However, Cavalier's president, Brad Evans, Cavalier's vice president-regulatory, Marty Clift, and I traveled to Boston to meet with Verizon on October 22, 2001.
42. In that meeting, we proposed a specific settlement of all bills disputed by Verizon and its affiliates or by Cavalier and its affiliates, for the five-state area in which Cavalier and its affiliates do business with Verizon and its affiliates.
43. Cavalier also formally disputed Verizon's October 15, 2001 "notice of default," by letter dated October 30, 2001.
44. Verizon responded in a November 1, 2001 e-mail that it has not "changed its intentions" as stated in its October 15, 2001 letter.
45. As explained in the accompanying affidavit of Cavalier's president, Brad Evans, Verizon will put Cavalier out of business if Verizon carries out its threats.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on November 13, 2001.



David O. Whitt

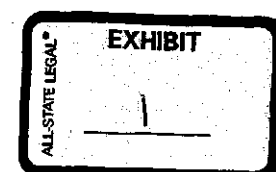
# ATTACHMENT D

## PROMOTIONAL DISCOUNTS FOR RESIDENTIAL UNBUNDLED LOCAL LOOPS

### ANALOG 2-WIRE LOOPS

Bell Atlantic States

Promotional Loop Discounts			
Zone	Current Price	New Price	Discount (%)
New York			
Zone 1	\$12.49	\$9.37	25.00
New Jersey			
Delaware			
Density Cell 1	\$10.07	\$8.56	15.00
Density Cell 2	\$13.13	\$9.19	30.00
Density Cell 3	\$16.67	\$10.18	39.00
District of Columbia			
Density Cell 1 (Statewide)	\$10.81	\$8.11	25.00
Illinois			
Zone 1	\$12.67	\$11.40	10.00
Zone 2	\$15.59	\$12.47	20.00
Zone 3	\$23.00	\$16.62	28.00
Maryland			
Density Cell 1	\$12.11	\$10.66	12.00
Density Cell 2	\$12.85	\$11.05	14.00
Density Cell 3	\$25.96	\$12.98	50.00
Density Cell 4	\$18.40	\$11.37	38.00





Average			
Zone 1 (Statewide)	\$25.49	\$19.11	25.03
Average			
Average			
Zone 1 (Statewide)	\$19.16	\$14.37	25.00
Average			
Average			
Zone 1 (Statewide)	\$23.94	\$17.95	25.02
Average			
Average			
Zone 1 (Statewide)	\$32.00	\$24.00	25.00
Average			

Rec 11/7/00



November 1, 2000

CAVALIER TELEPHONE LLC  
2134 W LABURNUM AV  
RICHMOND VA 23227-4342

Verizon Communications  
Wholesale Markets Billing and Collection  
One Washington Park, Floor Six  
Newark, NJ 07102

ATTN: ARLENE WARREN

Certified Letter #: Z 321 181 707  
Re: Past Due Balance(s)

BILLING ACCOUNT NUMBER	PAST DUE BALANCE	BILL PERIOD
023 927 1023 999	\$2,832,112.37 <i>Bus</i>	28
023 927 1037 999	\$106,081.89 <i>Res</i>	28
023 927 1024 301	\$0.00	28
023 927 1035 070	\$0.00	28
Total:		\$2,938,194.26

Dear ARLENE WARREN :

Perhaps you haven't realized that payment on your account(s) listed above is overdue. Payments are due 30 calendar days after the bill date which is printed on the bill.

Any payment or portion of a payment that is not received by the "Pay by Date" is subject to a late payment penalty which is automatically billed to the account.

Prompt payments will avoid late charges and collection notices which can jeopardize your credit standing.

Your account(s) above are now overdue in the amount of \$2,938,194.26. If full payment is not received within thirty (30) calendar days of this letter to satisfy the past-due balance noted, all accounts within the state of Virginia are subject, without further written notice, to refusal of additional orders, refusal to complete any pending orders, and/or discontinuance of service.

IF YOU HAVE RECEIVED A PRIOR NOTICE OF PAST DUE ACCOUNTS WITHIN THE STATE OF VIRGINIA, AND YOU HAVE NOT SATISFIED THAT BALANCE, THE REFUSAL OF ADDITIONAL SERVICE WILL OCCUR ON THE DATE SPECIFIED ON THAT NOTICE.

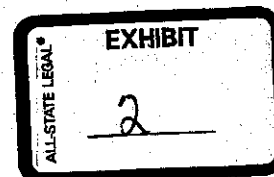
In addition, Verizon has the authority to request a security deposit equal to an average of two (2) months billing.

If you have already made arrangements to satisfy the amount due or a payment has been remitted, please disregard this notice.

Should you have any questions concerning your account please call me on 973 649-5204.

Very truly yours,

Juanita D. Thomas



November 28, 2000

Juanita D. Thomas  
Verizon Communications  
Wholesale Markets Billing and Collections  
One Washington Park, Floor Six  
Newark, NJ 07102

Re: Cavalier Telephone, L.L.C. ("Cavalier")  
Billing Account Number: 023 927 1023 999  
Billing Account Number: 023 927 1037 999

I am writing in response to the enclosed correspondence (certified letter # Z 321 181 707) dated November 1, 2000 which asserts that Cavalier has a past due balance of \$2,938,194.26 related to the provisioning of unbundled local loops ("loops"). The past due balance asserted by Verizon is tremendously overstated and also impractical to reconcile to a true amount owed related to loop purchases.

Cavalier began accepting loops on behalf of its customers in July of 1999. Since that time our loop invoices prepared by Verizon have been fraught with errors each and every month. Thousands of loops have been billed under the wrong rate elements. For Example, Zone 1 loops are often billed by Verizon at the higher Zone 2 and Zone 3 rate elements. In addition, Verizon has billed Cavalier hundreds of thousands of dollars for one time non-recurring charges related to premise visits during the cutover process. To date Verizon has yet to provide Cavalier with work order tickets signed by Cavalier customers in order to substantiate billings of the premise visits. The more favorable loop promotional rates required as a condition of approval for the Bell Atlantic / GTE merger have been completely ignored by Verizon. All new loops post-merger have been billed at the old (e.g., pre-promotional) higher rates even though loops acquired in recent months have been billed by Verizon with their new Express Track billing system. That is just another example of Verizon's highly touted Express Track system hindering Cavalier's ability to efficiently conduct business.

Cavalier has made repeated requests for Verizon to provide loop invoices in a data file that would allow Cavalier to efficiently compare Verizon data with that of Cavalier's internal information systems. As one of Verizon's largest wholesale purchaser of loops in Virginia, it is not unrealistic to expect a monthly invoice for loop purchases that is in a computer format that is downloadable to common software tools such as Microsoft Access or Excel. Such a file format would allow Cavalier the opportunity to efficiently review the massive loop invoices that are currently growing larger each month in terms of both paper pages and dollars invoiced. Verizon has further complicated the billing process by listing loops with an identification number other than the customers' phone number, thus requiring a labor intensive cross-reference process on Cavalier's part to review some 30,000 plus loops on thousands of paper-invoice pages each month.

Initially Cavalier attempted to self-bill for loop purchases. In fact, Cavalier has paid Verizon in excess of \$400,000 for estimated loop purchases from July 1999 through March 2000 using internally prepared documentation by Cavalier personnel. Cavalier even provided Verizon with estimated loop purchases from April 2000 to July 2000 and simply requested that Verizon review Cavalier documentation for completeness and accuracy. To date Verizon has chosen to ignore the Cavalier request to validate its internally prepared loop invoices and thus, Cavalier will no longer expend precious internal resources to self-bill for loop purchases or any other purchases from Verizon.

As you can see, Cavalier has made a good faith effort to determine our actual payment liability related to unbundled local loops. I respectfully request that Verizon address and correct its billing errors, retroactively apply adjustments as needed and provide Cavalier with acceptable bill formats to allow for an efficient review of loop bills by Cavalier on a prospective and retroactive basis.

Thank you in advance for your attention to this important matter. If you have any questions, please contact me at (804) 422-4520.

Yours truly,

David O. Whitt  
Vice President of Finance

CC: Joe Corticada - Verizon  
Martin Clift - Cavalier Telephone

Enclosure





Verizon Communications  
Wholesale Markets Billing and Collections  
One Washington Park, Floor Six  
Newark, NJ 07102

November 1, 2000

CAVALIER TELEPHONE LLC  
2134 W LABURNUM AV  
RICHMOND VA 23227-4342

ATTN: ARLENE WARREN

Certified Letter #: Z 321 181 707  
Re: Past Due Balance(s)

BILLING ACCOUNT NUMBER	PAST DUE BALANCE	BILL PERIOD
023 927 1023 999	\$2,832,112.37	2A
023 927 1037 999	\$106,081.89	2A
023 927 1024 301	\$0.00	2A
023 927 1035 070	\$0.00	2A
Total:		\$2,938,194.26

Dear ARLENE WARREN :

Perhaps you haven't realized that payment on your account(s) listed above is overdue. Payments are due 30 calendar days after the bill date which is printed on the bill.

Any payment or portion of a payment that is not received by the "Pay by Date" is subject to a late payment penalty which is automatically billed to the account.

Prompt payments will avoid late charges and collection notices which can jeopardize your credit standing.

Your account(s) above are now overdue in the amount of \$2,938,194.26. If full payment is not received within thirty (30) calendar days of this letter to satisfy the past-due balance noted, all accounts within the state of Virginia are subject, without further written notice, to refusal of additional orders, refusal to complete any pending orders, and/or discontinuance of service.

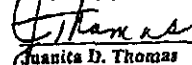
IF YOU HAVE RECEIVED A PRIOR NOTICE OF PAST DUE ACCOUNTS WITHIN THE STATE OF VIRGINIA, AND YOU HAVE NOT SATISFIED THAT BALANCE, THE REFUSAL OF ADDITIONAL SERVICE WILL OCCUR ON THE DATE SPECIFIED ON THAT NOTICE.

In addition, Verizon has the authority to request a security deposit equal to an average of two (2) months billing.

If you have already made arrangements to satisfy the amount due or a payment has been remitted, please disregard this notice.

Should you have any questions concerning your account please call me on 973 649-5204.

Very truly yours,

  
Juanita D. Thomas



June 13, 2001

CAVALIER TELEPHONE LLC  
2134 W LABURNUM AVE  
RICHMOND VA 23227-4342

Verizon Communications  
Wholesale Markets Billing and Collections  
One Washington Park, Floor Six  
Newark, NJ 07102

ATTN: MARTIN CLIFT

Certified Letter #: Z 321 181 85

3

Re: Past Due Balance(s)

BILLING ACCOUNT NUMBER	PAST DUE BALANCE	BILL PERIOD
021 927 1026 999	\$17,160.06	28
021 927 1027 135	\$0.00	28
021 927 1028 159	\$0.00	28
410 U09-1065 269	\$37,902.81	23
Total:	\$55,062.87	

Dear MARTIN CLIFT :

Perhaps you haven't realized that payment on your account(s) listed above is overdue. Payments are due 30 calendar days after the bill date which is printed on the bill.

Any payment or portion of a payment that is not received by the "Pay by Date" is subject to a late payment penalty which is automatically billed to the account.

Prompt payments will avoid late charges and collection notices which can jeopardize your credit standing.

Your account(s) above are now overdue in the amount of \$55,062.87. If full payment is not received within thirty (30) calendar days of this letter to satisfy the past-due balance noted, all accounts within the state of Maryland are subject, without further written notice, to refusal of additional orders, refusal to complete any pending orders, and/or discontinuance of service.

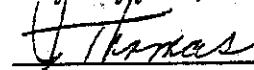
IF YOU HAVE RECEIVED A PRIOR NOTICE OF PAST DUE ACCOUNTS WITHIN THE STATE OF MARYLAND, AND YOU HAVE NOT SATISFIED THAT BALANCE, THE REFUSAL OF ADDITIONAL SERVICE WILL OCCUR ON THE DATE SPECIFIED ON THAT NOTICE.

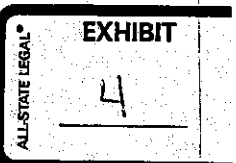
In addition, Verizon has the authority to request a security deposit equal to an average of two (2) months billing.

If you have already made arrangements to satisfy the amount due or a payment has been remitted, please disregard this notice.

Should you have any questions concerning your account please call me on 973 649-1935.

Very truly yours,

  
Juanita D. Thomas





June 13, 2001

CAVALIER TELEPHONE LLC  
2134 W LABURNUM AVE  
RICHMOND VA 23227-4342

Verizon Communications  
Wholesale Markets Billing and Collections  
One Washington Park, Floor Six  
Newark, NJ 07102

ATTN: MARTIN CLIFT

Certified Letter #: Z 321 181 853  
Re: Past Due Balance(s)

BILLING ACCOUNT NUMBER	PAST DUE BALANCE	BILL PERIOD
717 119 1051 999	\$60,718.25	28
717 119-1052	\$0.00	28
717 119 1062 381	\$0.00	28
610 U04-1045 045	\$93,592.83	07
Minus Pending Claim:	\$2,964.00	
Total:	\$151,347.08	

Dear MARTIN CLIFT :

Perhaps you haven't realized that payment on your account(s) listed above is overdue. Payments are due 30 calendar days after the bill date which is printed on the bill.

Any payment or portion of a payment that is not received by the "Pay by Date" is subject to a late payment penalty which is automatically billed to the account.

Prompt payments will avoid late charges and collection notices which can jeopardize your credit standing.

Your account(s) above are now overdue in the amount of \$151,347.08. If full payment is not received within thirty (30) calendar days of this letter to satisfy the past-due balance noted, all accounts within the state of Pennsylvania are subject, without further written notice, to refusal of additional orders, refusal to complete any pending orders, and/or discontinuance of service.

**IF YOU HAVE RECEIVED A PRIOR NOTICE OF PAST DUE ACCOUNTS WITHIN THE STATE OF PENNSYLVANIA, AND YOU HAVE NOT SATISFIED THAT BALANCE, THE REFUSAL OF ADDITIONAL SERVICE WILL OCCUR ON THE DATE SPECIFIED ON THAT NOTICE.**

In addition, Verizon has the authority to request a security deposit equal to an average of two (2) months billing.

If you have already made arrangements to satisfy the amount due or a payment has been remitted, please disregard this notice.

Should you have any questions concerning your account please call me on 973 649-1935.

Very truly yours,

  
Juanita D. Thomas

**Warren, Katherine (Arlene)**

---

**From:** Clift, Marty  
**Sent:** Friday, June 15, 2001 1:59 PM  
**To:** 'sharon.e.logan@verizon.com'  
**Cc:** Whitt, David; Warren, Katherine (Arlene)  
**Subject:** Billing

We just received a certified letter, Z321 181 853, from Juanita D. Thomas about past due balances on various bills. Three separate letters were enclosed in the envelope. The letter states:

"IF.....YOU HAVE NOT SATISFIED THAT BALANCE, THE REFUSAL OF ADDITIONAL SERVICE WILL OCCUR ON THE DATE SPECIFIED ON THAT NOTICE."

Since we are trying to negotiate billing issues, we assume that this letter is in error.

If this is an incorrect assumption, please let us know.

I will call Ms. Thomas at 973-649-1935. Perhaps you should call too.



June 13, 2001

CAVALIER TELEPHONE LLC  
2134 W LABURNUM AV  
RICHMOND VA 23227-4342

Verizon Communications  
Wholesale Markets Billing and Collections  
One Washington Park, Floor Six  
Newark, NJ 07102

ATTN: ARLENE WARREN

Certified Letter #: Z 321 181 853

Re: Past Due Balance(s)

BILLING ACCOUNT NUMBER	PAST DUE BALANCE	BILL PERIOD
023 927 1023 999	\$3,952,275.35	28
023 927 1037 999	\$566,376.61	28
023 927 1024 301	\$0.00	28
023 927 1057 557	\$0.00	28
757 U09-1023 812	\$100,781.40	28
804 U09-1017 719	\$82,765.70	25
628263859	\$487,783.53	28
Minus Pending Claim:	\$812,038.00	
Total:	\$4,377,944.59	

Dear ARLENE WARREN :

Perhaps you haven't realized that payment on your account(s) listed above is overdue. Payments are due 30 calendar days after the bill date which is printed on the bill.

Any payment or portion of a payment that is not received by the "Pay by Date" is subject to a late payment penalty which is automatically billed to the account.

Prompt payments will avoid late charges and collection notices which can jeopardize your credit standing.

Your account(s) above are now overdue in the amount of \$4,377,944.59. If full payment is not received within thirty (30) calendar days of this letter to satisfy the past-due balance noted, all accounts within the state of Virginia are subject, without further written notice, to refusal of additional orders, refusal to complete any pending orders, and/or discontinuance of service.

IF YOU HAVE RECEIVED A PRIOR NOTICE OF PAST DUE ACCOUNTS WITHIN THE STATE OF VIRGINIA, AND YOU HAVE NOT SATISFIED THAT BALANCE, THE REFUSAL OF ADDITIONAL SERVICE WILL OCCUR ON THE DATE SPECIFIED ON THAT NOTICE.

In addition, Verizon has the authority to request a security deposit equal to an average of two (2) months billing.

If you have already made arrangements to satisfy the amount due or a payment has been remitted, please disregard this notice.

Should you have any questions concerning your account please call me on 973 649-1935.

Very truly yours,



## McCullough, Kathy

From: McCullough, Kathy  
Sent: Tuesday, June 19, 2001 1:55 PM  
To: Joe Corticada (E-mail)  
Cc: Sharon E Logan (E-mail); Warren, Katherine (Arlene); Clift, Marty; 'jeannine.t.kirkman@verizon.com'; Whitt, David

Joe-

I am attaching three collection letters from Juanita Thomas. If I had her e-mail address I would copy her on this also. Every one bill we have with Verizon is in dispute and not being paid over the rate element issue. Every month I put in a separate dispute over late payment charges on the same bills and I reference the fact that you have advised Cavalier late payment charges do not apply until this is settled. This procedure is referenced to in our interconnect agreement (attachment viii,3.1.9) as well as the documentation in the clec handbook.

These bills have been in dispute for a year. You advised Arlene Warren, on a conference call 3/29/01 that Verizon would do file spins to identify customers and correct records. They would be done in two to three week intervals, then adjustments would be done. This hasn't happened. In talks with Sharon Logan she said she understood that the XPRSTRK side would not be corrected until October.

Both Legacy and XPRSTRK are inconsistent in the rates being billed. Who is responsible for identifying the root cause?

On the conference call of 6/7/01 you advised that there were problems with the file spins and couldn't say when they would be handled. When we brought up the October time frame other managers on the call said they would see about expediting the XPRSTRK fix. We all discussed the fact that the bills were not accurate, late payment charges did not apply and that there was an offer on the table to at least settle up through December 2000. And, that the ball is now in Verizon's court.

I have discussed in detail the difficulties of identifying these customers with you and Sharon Logan. The customer base you have now isn't the same one as even a month ago. Customers may have gone back and forth between Verizon, Cavalier and other clocs.

Also, these customers may have migrated to XPRSTRK. I find it hard to believe any company could render an accurate, corrected back bill based on this kind of customer base.

Letters threatening security deposits, collection services and refusal of service do not seem to be the appropriate response.

I am beginning to feel like I am not getting excellent service and that Verizon does not appreciate my business.

Kathy McCullough  
804 422-4075



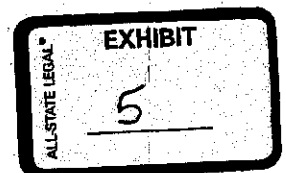
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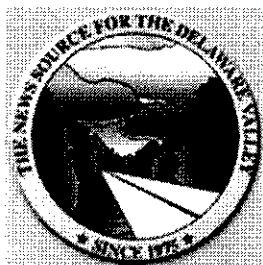


letter 2.doc



letter 3.doc





# Wind Farm looms in the sky over Waymart

By TOM KANE

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WAYMART, PA — George Podunajec, a retired farmer in Waymart, suspiciously eyes the huge wind turbines that tower over his tiny home a quarter of a mile away.

"They ruined our hunting land," he said. "They tore down all the trees. I don't know what it's going to be like."

Just west of his home, FPL Energy of Juno, FL is erecting 14 large wind turbines that stand 213 feet over the field with an additional 115 feet of mammoth, rotating blades.



TRR photo by Tom Kane

A wind turbine towers over a cell tower on

Moosic Mountain. (Click for larger image)

"I'm wondering how much noise they're going to make when they get going," Podunajec said. Podunajec farmed the fields on which the turbines are built for many years.

"I leased the land from my neighbor," he said.

Leasing is also the method being used by FPL to maintain the fields.

"I guess the folks who own the fields are going to get some nice income from this," he said. "I suppose it will work out okay. What else can I do?"

Over a year ago, a local group of residents began a campaign to stop the construction. Their efforts failed.

According to Mark Carmon, a representative of the Pennsylvania Department of Environmental Protection, who held a public hearing on the proposed wind farm in April of 2001, wind farm companies search out communities with no zoning to build their projects.

At the time Canaan and Clinton Townships had no zoning.

Wind farms are a trend that is happening across the country as the nation seeks new, environmentally friendly, alternate sources of electricity.

This project, with an estimated cost of \$64 million, will receive production incentives from the Sustainable Development Fund of Philadelphia, a non-profit clean energy fund managed by the Reinvestment Fund, a foundation of Northeastern U.S. energy companies. The money was set aside under an order from the Mid-Atlantic Public Utilities Commission for the purpose of developing clean energy sources, according to Rob Sanders of the Reinvestment Fund.

In all, 43 turbines will be erected, 20 in Canaan Township and 23 in Clinton Township to the north on the other side of Route 6. All are stationed atop the Moosic Mountains.

The electrical energy will be sold to Exelon Generation Company, LLC and will be marketed by Community Energy of Wayne County.

Construction is expected to be completed by the end of 2003, according to Mary Wells, FPL spokesperson.

During the six-month construction period, up to 150 construction workers are expected at the site. When fully operational, the site will require two staff workers.

Each turbine manufactured by General Electric, generates 1.5 megawatts of electricity with the final generation reaching 64.5 megawatts when the project is completed.

Atop each tower sits a structure called a nacelle, housing the generator that makes the electricity. The nacelle turns in the direction of the wind and can begin generating power when winds reach a speed of five miles an hour. The nacelle cuts off when wind exceeds 55 miles and hour, to protect the equipment.

"This project spells a long-term benefit to local businesses resulting from tourism and it provides a benefit of clean power for Pennsylvania," Wells said.

"We're tremendously excited about this project," said Wayne County Commissioner Anthony Herzog. "It's a clean, efficient source of electricity that will add more energy to our grid. It also will give our tourist industry a boost since people will want to come see it. I'm sure our local chambers of commerce will be promoting it."

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***What do you think?  
Talk about it on the discussion board!***

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